

REMARKS:

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because:

(a) the amendments were not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed;

(b) the amendments of claims 1–4, 6–7, 9–11, and 13–15 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and/or

(c) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action mailed May 19, 2005, at page 2, numbered paragraph 3, claims 1-15 were rejected under 35 U.S.C. §102 in view of Baum U.S. Patent No. 5,868,578 (hereinafter "Baum"). Claims 1-4, 6-7, 9-11, and 13-15 have been amended, and, thus, in view of the forgoing claims, claims 1-15 remain pending for reconsideration which is requested. No new matter has been added. This rejection is traversed and reconsideration is requested.

The present invention is patentably distinguishable over the Baum reference. The Baum reference fails to teach " when any retrieval data is selected as retrieval condition from among the retrieval data inputted by the input unit, extracting picture data corresponding to the selected retrieval data from the storage unit and displaying the extracted picture data", as set forth in claims 1, 7, 14, and 15. The Examiner relied on the following language in the Baum reference to teach this feature of the present invention:

A hitter, filmed at high speed, proceeds through a normal hitting sequence which is broken down into steps shown in the table of FIG. 8. The film is digitized and analyzed by software, and the resulting data is then available in the database and may be viewed by interested parties in a variety of formats.

(Col. 5 Lines 3-8)

The present invention allows a user to query the database for specific retrieval data. The present invention then presents all the specific extracted data that relates to the retrieval data. In contrast, the Baum reference does not disclose this directed search based on retrieval data. The data in the Baum reference is merely stored and made available digitally.

Furthermore, the Baum reference fails to teach: " wherein the subject is a player of a ball game being performed", as set forth in claims 1, 7, 14, and 15. The Examiner relied on the following language to teach this feature of the present invention: "[i]n a baseball environment, then, the system may be used to provide all relevant information on how the hitter and/or pitcher move, including all relevant steps associated with the pitch and hit of the ball, including all relevant movements of the ball itself" (Col. 3 Lines 35-39) and "[i]ndeed, the invention may be used to surreptitiously analyze the performance of players without them knowing it, for example, on an opposing team. " (Col. 6 Lines 49-52) A baseball environment is not a necessarily a ball game environment. More specifically, the Baum reference indicates that its batter analysis and testing system operates at less than full functionality during ball game environments stating:

[a]lthough it may be a challenge to incorporate a laser-based bat-swing monitor and/or vibration tester into the playing field, numerous high-speed digital cameras may be used outside of the playing field, for example, with telephoto lenses, along with player or ball isolation software, if required, and analysis software to develop performance statistics on a real-time or historical basis.

(Col. 6 Lines 52-58)

With the loss of the vibration tester and the laser-based bat-swing monitor during a ball game environment, the Baum reference does not disclose how it maintains the functionality lost due to the limitations during a ball game environment. Although the telephoto lens disclosed by the Baum reference can supplant the video cameras during a ball game environment, no replacement is disclosed for the laser-based bat-swing monitor and vibration tester.

It is submitted that the Baum reference is an improper reference to anticipate the present invention since the Baum disclosure is only partially functional. A prior art reference is not effective as an anticipation if modification involving the exercise of **more than ordinary skill** in the relevant art is required to render it capable of performing such function. See *In re Donohue*, 766 F.2d 531, 533 – 34 (Fed. Cir. 1985). Therefore, it is respectfully submitted that claims 1, 7, 14, and 15 are patentably distinguishable over the prior art.

Lastly, the Baum reference fails to teach "all the segmentation information is inputted by a user" as set forth in claims 1, 7, 14, and 15. The Baum reference discloses:

a computer system 110 incorporating software to analyze measurements and generate a database containing measurements and completed analyses. Each device is continuously monitored by the computer system 110, and once the devices are set out in the evaluation area, all devices make completely automatic measurements of each pitch and hit without any action of the operator.

(Col. 3 Lines 45-52)

Therefore, it is respectfully submitted that the present application is patentably distinguishable over the prior art.

Claims 2-6 and 8-13 depend from claims 1 and 7, respectively, and include all the features of claims 1 and 7 plus additional features not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 2-6 and 8-13 are patentably distinguishable over the prior art.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

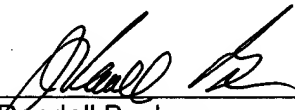
If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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